

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION**

**GEOFFREY ASHER,**

**Plaintiff,**

**vs.**

**MARK MCCLURE, *et al.*,**

**Defendants.**

**CIVIL ACTION FILE**

**NO. 2:08-CV-0035-WCO**

**RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR COSTS**

COME NOW Defendants McClure and Miller, and, pursuant to Local Rule 7.1, oppose Plaintiff's Motion for Attorney's Fees and Expenses. [Doc. 93]

**Expenses.** Defendants oppose Plaintiff's itemized expense petition in part. Defendants note that certain items on Plaintiff's cost accounting are for costs that, if taxable, would be taxable by the Eleventh Circuit rather than in this Court. (Doc. 93 at 3: Items dated 1/24/2011 totaling approximately \$240). Additionally, certain witness and mileage costs are itemized for witnesses whom Plaintiff did not call to testify during trial of the case, namely Grover Bagley and Donald Grindle. Doc. 93 at 3-4. Finally, a line item for "mileage" is detailed for "Dallas Cox," a person whose relation to this case is unknown and is not provided in the Plaintiff's court filing. Doc. 93 at 4. The foregoing challenged costs total approximately \$447.48.

**Attorney's Fees.** The attorney's fee portion of Plaintiff's motion is for a

lump sum estimate, which it appears Plaintiff intends to supplement. Defendants oppose Plaintiff's attorney's fees motion pending supplementation, and reserve the right to provide a more detailed challenge to the extent that Plaintiff provides further filings in support of his motion. See Norman v. Housing Authority of the City of Montgomery, 836 F.2d 1292, 1303 (11th Cir.1988). As is, the motion should be denied based on prevailing standards relating to substantiation.

### **CONCLUSION**

For all the foregoing reasons, Defendants oppose Plaintiff's motion and reserve the right to file further materials in opposition to the extent that Plaintiff supplements his motion.

Respectfully submitted,

WILLIAMS, MORRIS & WAYMIRE, LLC

/s/ Jason Waymire  
Jason C. Waymire  
Georgia Bar No.: 742602  
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### **CERTIFICATION OF COMPLIANCE WITH L.R. 5.1(B).**

Counsel for Defendants certifies that the foregoing Brief complies with the font and point size requirements of Local Rule 5.1(B).

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing **RESPONSE** electronically upon counsel for all parties through the Court's CM/ECF system, as follows:

Matt Karzen, Attorney for Plaintiff

This 29th day of AUGUST, 2011.

WILLIAMS, MORRIS & WAYMIRE, LLC

/s/ Jason Waymire  
Jason C. Waymire  
Georgia Bar No.: 742602  
Attorney for Defendants